

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

CAROLYN HENNINGS,

Plaintiff,

v.

MICHAEL J. ASTRUE, Comm.,
Social Security Administration,

Defendant,

CV 01-7116-VAP (SH)

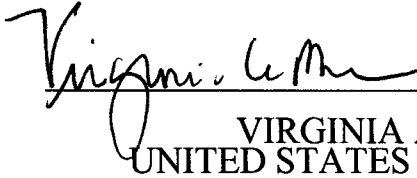
ORDER ADOPTING REPORT
AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE

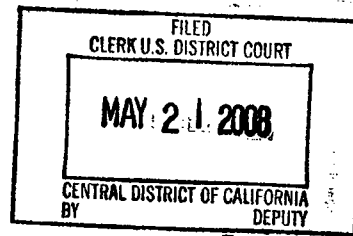
Pursuant to 28 U.S.C. §636(b)(1)(B), the Court has reviewed the pleadings and other papers herein along with the attached Report and Recommendation of United States Magistrate Judge, and has made a de novo determination of the Report and Recommendation.

IT IS ORDERED that (1) the Report and Recommendation is approved and adopted as the Fact and Conclusions of Law herein; (2) that judgment be entered dismissing the plaintiff's Complaint.

1 IT IS FURTHER ORDERED that the Clerk shall serve forthwith a copy of
2 this Order, the Magistrate Judge's Report and Recommendation and the Judgment
3 by United States mail on the plaintiff and on the United States Attorney for the
4 Central District of California.

5 DATED: 6/16/08
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9 VIRGINIA A. PHILLIPS
10 UNITED STATES DISTRICT JUDGE
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

CAROYLN HENNINGS,) CV 01-7116-VAP-(SH)
)
Plaintiff,) REPORT AND RECOMMENDATION
) OF UNITED STATES MAGISTRATE
v.) JUDGE
)
MICHAEL J. ASTRUE, Comm.)
Social Security Administration,)
)
Defendant.)

This Report and Recommendation is submitted to United States District Judge Virginia A. Phillips pursuant to 28 U.S.C. § 636 and General Order 194 of the United States District Court for the Central District of California.

I. BACKGROUND

Plaintiff who appears pro per, was ordered to advise the court no later than May 14, 2008 in writing whether she intended to dismiss her case. See attached Minute Order. The records of this Court indicate that this action is not being

1 diligently prosecuted by plaintiff, in that the defendant United States Attorney's
2 Office has not been served with a Motion for Summary Judgment.

3 This action should be dismissed for violation of this Court's previous Order,
4 and for plaintiff's failure diligently to prosecute. See Rule 41(b), Fed.R.Civ.P. and
5 Link v. Wabash Railroad Co., 370 U.S. 626, 629-30 (1962), reh'g denied, 371 U.S.
6 873 (1962).

7 In reaching this conclusion, the Magistrate Judge has weighed the relevant
8 factors: "(1) the public's interest in expeditious resolution of litigation; (2) the
9 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the
10 public policy favoring disposition of cases on their merits; and (5) the availability
11 of less drastic sanctions." Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988).

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13 **III. RECOMMENDATION**

14 For all of the foregoing reasons, IT IS RECOMMENDED that the Court
15 issue an Order: (1) approving and adopting this Report and Recommendation; and
16 (2) directing that Judgment be entered dismissing plaintiff's Complaint.

17 DATED: 5/21/08

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21 STEPHEN J. HILLMAN
22 UNITED STATES MAGISTRATE JUDGE

23 **NOTICE**

24 Reports and Recommendations are not appealable to the Court of Appeals,
25 but are subject to the right of any party to file Objections as provided in the Local
26 Rules Governing the Duties of the Magistrate Judges, and review by the District
27 Judge whose initials appear in the docket number. No Notice of Appeal pursuant
28 to the Federal Rules of Appellate Procedure should be filed until entry of the
Judgment of the District Court.